

Message Text

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AMEMBASSY CANBERRA

AMEMBASSY ISLAMABAD

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AMEMBASSY JAKARTA

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FOLLOWING TEL SENT ACTION SECSTATE INFO BONN, LONDON, MOSCOW,
THE HAGUE, OTTAWA, ROME, STOCKHOLM, TOKYO, USUN NEW YORK,
NATO, ERDA HQ WASHDC, ERDA GERMANTOWN, NOAA ROCKVILLE MD FROM
GENEVA AUG 28:

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SUBJECT: CCD-AD REFERENDUM DRAFT ENMOD CONVENTION, ANNEX, AND
COMMITTEE UNDERSTANDINGS

FOLLOWING IS COMPLETE DRAFT TEXT, AS AGREED TO AD REFERENDUM ON
FRIDAY, AUG 27 BY THE ENMOD WORKING GROUP, OF THE ENMOD
CONVENTION ITSELF, ITS ANNEX PROVIDING FOR A CONSULTATIVE
COMMITTEE OF EXPERTS, AND FOUR COMMITTEE UNDERSTANDINGS
TO BE INCLUDED IN CCD'S 1976 REPORT TO UNGA. THE DRAFT
UNDERSTANDINGS RELATE TO ARTICLES I, II, III, AND VIII
(FORMERLY VII BIS).

BEGIN TEXT:

DRAFT CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER
HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

THE STATES PARTIES TO THIS CONVENTION,

GUIDED BY THE INTEREST OF CONSOLIDATING PEACE, AND
WISHING TO CONTRIBUTE TO THE CAUSE OF HALTING THE ARMS
RACE, AND OF BRINGING ABOUT GENERAL AND COMPLETE DISARM-
AMENT UNDER STRICT AND EFFECTIVE INTERNATIONAL CONTROL,
AND OF SAVING MANKIND FROM THE DANGER OF USING NEW MEANS
OF WARFARE,

DETERMINED TO CONTINUE NEGOTIATIONS WITH A VIEW TO
ACHIEVING EFFECTIVE PROGRESS TOWARDS FURTHER MEASURES IN
THE FIELD OF DISARMEMENT,

RECOGNIZING THAT SCIENTIFIC AND TECHNICAL ADVANCES
MAY OPEN NEW POSSIBILITIES WITH RESPECT TO MODIFICATION
OF THE ENVIRONMENT,

RECALLING THE DECLARATION OF THE UNITED NATIONS
CONFERENCE ON THE HUMAN ENVIRONMENT ADOPTED IN STOCKHOLM
ON 16 JUNE 1972,

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REALIZING THAT THE USE OF ENVIRONMENTAL MODIFICATION
TECHNIQUES FOR PEACEFUL PURPOSES COULD IMPROVE THE INTER-
RELATIONSHIP OF MAN AND NATURE AND CONTRIBUTE TO THE
PRESERVATION AND IMPROVEMENT OF THE ENVIRONMENT FOR THE
BENEFIT OF PRESENT AND FUTURE GENERATIONS,

RECOGNIZING, HOWEVER, THAT MILITARY OR ANY OTHER HOSTILE
USE OF SUCH TECHNIQUES COULD HAVE EFFECTS EXTREMELY HARMFUL
TO HUMAN WELFARE,

DESIRING TO PROHIBIT EFFECTIVELY MILITARY OR ANY OTHER HOSTILE
USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES IN ORDER TO
ELIMINATE THE DANGERS TO MANKIND FROM SUCH USE, AND AFFIRM-

ING THEIR WILLINGNESS TO WORK TOWARDS THE ACHIEVEMENT OF
THIS OBJECTIVE,

DESIRING ALSO TO CONTRIBUTE TO THE STRENGTHENING OF
TRUST AMONG NATIONS AND TO THE FURTHER IMPROVEMENT OF THE
INTERNATIONAL SITUATION IN ACCORDANCE WITH THE PURPOSES
AND PRINCIPLES OF THE CHARTER OF THE UNITED NATIONS,

HAVE AGREED AS FOLLOWS:

ARTICLE I

1. EACH STATE PARTY TO THIS CONVENTION UNDERTAKES
NOT TO ENGAGE IN MILITARY OR ANY OTHER HOSTILE USE OF
ENVIRONMENTAL MODIFICATION TECHNIQUES HAVING WIDESPREAD,
LONG-LASTING OR SEVERE EFFECTS AS THE MEANS OF DESTRUCTION,
DAMAGE OR INJURY TO ANOTHER STATE PARTY.

2. EACH STATE PARTY TO THIS CONVENTION UNDERTAKES
NOT TO ASSIST, ENCOURAGE OR INDUCE ANY STATE, GROUP OF
STATES OR INTERNATIONAL ORGANIZATION TO ENGAGE IN
ACTIVITIES CONTRARY TO THE PROVISION OF PARAGRAPH 1 OF
THIS ARTICLE.

ARTICLE II

AS USED IN ARTICLE I, THE TERM "ENVIRONMENTAL
MODIFICATION TECHNIQUES" REFERS TO ANY TECHNIQUE FOR
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CHANGING -- THROUGH THE DELIBERATE MANIPULATION OF
NATURAL PROCESSES -- THE DYNAMICS, COMPOSITION OR
STRUCTURE OF THE EARTH, INCLUDING ITS BIOTA, LITHOSPHERE,
HYDROSPHERE, AND ATMOSPHERE, OF OUTER SPACE.

ARTICLE III

1. THE PROVISIONS OF THIS CONVENTION SHALL NOT
HINDER THE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES
FOR PEACEFUL PURPOSES AND SHALL BE WITHOUT PREJUDICE TO
GENERALLY RECOGNIZED PRINCIPLES AND APPLICABLE RULES OF
INTERNATIONAL LAW CONCERNING SUCH USE.

2. THE STATES PARTIES TO THIS CONVENTION UNDERTAKE
TO FACILITATE, AND HAVE THE RIGHT TO PARTICIPATE IN,
THE FULLEST POSSIBLE EXCHANGE OF SCIENTIFIC AND TECHNICAL
INFORMATION ON THE USE OF ENVIRONMENTAL MODIFICATION
TECHNIQUES FOR PEACEFUL PURPOSES. STATES PARTIES, IN A
POSITION TO DO SO, SHALL CONTRIBUTE, ALONE OR TOGETHER
WITH OTHER STATES OR INTERNATIONAL ORGANIZATIONS, TO

INTERNATIONAL ECONOMIC AND SCIENTIFIC COOPERATION IN THE

PRESERVATION, IMPROVEMENT AND PEACEFUL UTILIZATION OF THE ENVIRONMENT, WITH DUE CONSIDERATION FOR THE NEEDS OF THE DEVELOPING AREAS OF THE WORLD.

ARTICLE IV

EACH STATE PARTY TO THIS CONVENTION UNDERTAKES TO TAKE ANY MEASURE IT CONSIDERS NECESSARY IN ACCORDANCE WITH ITS CONSTITUTIONAL PROCESSES TO PROHIBIT AND PREVENT ANY ACTIVITY IN VIOLATION OF THE PROVISIONS OF THE CONVENTION ANYWHERE UNDER ITS JURISDICTION AND CONTROL.

ARTICLE V

1. THE STATES PARTIES TO THIS CONVENTION UNDERTAKE TO CONSULT ONE ANOTHER TO COOPERATE IN SOLVING ANY PROBLEMS WHICH MAY ARISE IN RELATION TO THE OBJECTIVES OF, OR IN THE APPLICATION OF THE PROVISIONS OF, THIS CONVENTION. CONSULTATION AND COOPERATION PURSUANT TO UNCLASSIFIED

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THIS ARTICLE MAY ALSO BE UNDERTAKEN THROUGH APPROPRIATE INTERNATIONAL PROCEDURES WITHIN THE FRAMEWORK OF THE UNITED NATIONS AND IN ACCORDANCE WITH ITS CHARTER. THESE INTERNATIONAL PROCEDURES MAY INCLUDE THE SERVICES OF APPROPRIATE INTERNATIONAL ORGANIZATIONS, AS WELL AS OF A CONSULTATIVE COMMITTEE OF EXPERTS AS PROVIDED FOR IN PARAGRAPH 2 OF THIS ARTICLE.

2. FOR THE PURPOSE SET FORTH IN PARAGRAPH 1 OF THIS ARTICLE, THE DEPOSITARY SHALL, WITHIN ONE MONTH OF THE RECEIPT OF A REQUEST FROM ANY STATE PARTY, CONVENE A CONSULTATIVE COMMITTEE OF EXPERTS. ANY STATE PARTY MAY APPOINT AN EXPERT TO THIS COMMITTEE WHO FUNCTIONS AND RULES OF PROCEDURE ARE SET OUT IN THE ANNEX WHICH CONSTITUTES AN INTEGRAL PART OF THIS CONVENTION. THE COMMITTEE SHALL TRANSMIT TO THE DEPOSITARY A SUMMARY OF ITS FINDINGS OF FACT, INCORPORATING ALL VIEWS AND INFORMATION PRESENTED TO THE COMMITTEE DURING ITS PROCEEDINGS. THE DEPOSITARY SHALL DISTRIBUTE THE SUMMARY TO ALL STATES PARTIES.

3. ANY STATE PARTY TO THIS CONVENTION WHICH HAS REASONS TO BELIEVE THAT ANY OTHER STATE PARTY IS ACTING IN BREACH OF OBLIGATIONS DERIVING FROM THE PROVISIONS OF THE CONVENTION MAY LODGE A COMPLAINT WITH THE SECURITY COUNCIL OF THE UNITED NATIONS. SUCH A COMPLAINT SHOULD INCLUDE ALL RELEVANT INFORMATION, AND ALL POSSIBLE EVIDENCE SUPPORTING ITS VALIDITY.

4. EACH STATE PARTY TO THIS CONVENTION UNDERTAKES TO CO-OPERATE IN CARRYING OUT ANY INVESTIGATION WHICH THE

SECURITY COUNCIL MAY INITIATE, IN ACCORDANCE WITH THE PROVISIONS OF THE CHARTER OF THE UNITED NATIONS, ON THE BASIS OF THE COMPLAINT RECEIVED BY THE COUNCIL. THE SECURITY COUNCIL SHALL INFORM THE STATES PARTIES TO THE CONVENTION OF THE RESULTS OF THE INVESTIGATION.

5. EACH STATE PARTY TO THIS CONVENTION UNDERTAKES TO PROVIDE OR SUPPORT ASSISTANCE, IN ACCORDANCE WITH THE UNITED NATIONS CHARTER, TO ANY PARTY TO THE CONVENTION WHICH SO REQUESTS, IF THE SECURITY COUNCIL DECIDED THAT SUCH PARTY
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HAS BEEN HARMED OR IS LIKELY TO BE HARMED AS A RESULT OF VIOLATION OF THE CONVENTION.

ARTICLE VI

1. ANY STATE PARTY MAY PROPOSE AMENDMENT TO THIS CONVENTION. THE TEXT OF ANY PROPOSED AMENDMENT SHALL BE SUBMITTED TO THE DEPOSITARY WHO SHALL PROMPTLY CIRCULATE IT TO ALL STATES PARTIES.

2. AN AMENDMENT SHALL ENTER INTO FORCE FOR ALL STATES PARTIES WHICH HAVE ACCEPTED IT, UPON THE DEPOSIT WITH THE DEPOSITARY OF INSTRUMENTS OF ACCEPTANCE BY A MAJORITY OF STATES PARTIES. THEREAFTER IT SHALL ENTER INTO FORCE FOR ANY REMAINING STATE PARTY ON THE DATE OF DEPOSIT OF ITS INSTRUMENT OF ACCEPTANCE.

ARTICLE VII

THIS CONVENTION SHALL BE OF UNLIMITED DURATION.

ARTICLE VIII

1. FIVE YEARS AFTER THE ENTRY INTO FORCE OF THIS CONVENTION, A CONFERENCE OF THE STATES PARTIES TO THE CONVENTION SHALL BE CONVENED BY THE DEPOSITARY IN GENEVA, SWITZERLAND. THE CONFERENCE SHALL REVIEW THE OPERATION OF THE CONVENTION WITH A VIEW TO ENSURING THAT ITS PURPOSES AND PROVISIONS ARE BEING REALIZED, AND SHALL IN PARTICULAR EXAMINE THE EFFECTIVENESS OF THE PROVISIONS OF PARAGRAPH 1 OF ARTICLE I IN ELIMINATING THE DANGERS OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES.

2. AT INTERVALS OF NOT LESS THAN FIVE YEARS THEREAFTER, A MAJORITY OF THE PARTIES TO THE CONVENTION MAY OBTAIN, BY SUBMITTING A PROPOSAL TO THIS EFFECT TO THE DEPOSITARY, THE CONVENING OF A CONFERENCE WITH THE SAME OBJECTIVES.

3. IF NO REVIEW CONFERENCE HAS BEEN CONVENED PURSUANT TO PARAGRAPH 2 OF THIS ARTICLE WITHIN TEN YEARS FOLLOWING

THE CONCLUSION OF A PREVIOUS REVIEW CONFERENCE, THE
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DEPOSITARY SHALL SOLICIT THE VIEWS OF ALL STATES PARTIES TO
THIS CONVENTION OF THE HOLDING OF SUCH A CONFERENCE. IF
ONE-THIRD OR TEN OF THE STATES PARTIES, WHICHEVER NUMBER
IS LESS, RESPOND AFFIRMATIVELY, THE DEPOSITARY SHALL TAKE
IMMEDIATE STEPS TO CONVENE THE CONFERENCE.

ARTICLE IX

1. THIS CONVENTION SHALL BE OPEN TO ALL STATES FOR
SIGNATURE. ANY STATE WHICH DOES NOT SIGN THE CONVENTION
BEFORE ITS ENTRY INTO FORCE IN ACCORDANCE WITH PARAGRAPH 3
OF THIS ARTICLE MAY ACCEDE TO IT AT ANY TIME.

2. THIS CONVENTION SHALL BE SUBJECT TO RATIFICATION
BY SIGNATORY STATES. INSTRUMENTS OF RATIFICATION AND
INSTRUMENTS OF ACCESSION SHALL BE DEPOSITED WITH THE
SECRETARY-GENERAL OF THE UNITED NATIONS.

3. THIS CONVENTION SHALL ENTER INTO FORCE AFTER THE
DEPOSIT OF INSTRUMENTS OF RATIFICATION BY TWENTY GOVERNMENTS
IN ACCORDANCE WITH PARAGRAPH 2 OF THIS ARTICLE.

4. FOR THOSE STATES WHOSE INSTRUMENTS OF RATIFICATION
OR ACCESSION ARE DEPOSITED AFTER THE ENTRY INTO FORCE
OF THIS CONVENTION, IT SHALL ENTER INTO FORCE ON THE DATE
OF THE DEPOSIT OF THEIR INSTRUMENTS OF RATIFICATION OR
ACCESSION.

5. THE DEPOSITARY SHALL PROMPTLY INFORM ALL SIGNATORY
AND ACCEDING STATES OF THE DATE OF EACH SIGNATURE, THE DATE
OF DEPOSIT OF EACH INSTRUMENT OF RATIFICATION OR OF
ACCESSION AND THE DATE OF THE ENTRY INTO FORCE OF THIS
CONVENTION AND OF ANY AMENDMENTS THERETO, AS WELL AS OF THE
RECEIPT OF OTHER NOTICES.

6. THIS CONVENTION SHALL BE REGISTERED BY THE
DEPOSITARY IN ACCORDANCE WITH ARTICLE 102 OF THE CHARTER
OF THE UNITED NATIONS.

ARTICLE X

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THIS CONVENTION, OF WHICH THE ARABIC, CHINESE,
ENGLISH, FRENCH, RUSSIAN, AND SPANISH TEXTS ARE EQUALLY
AUTHENTIC, SHALL BE DEPOSITED WITH THE SECRETARY-GENERAL
OF THE UNITED NATIONS WHO SHALL SEND CERTIFIED COPIES

THEREOF TO THE GOVERNMENTS OF THE SIGNATORY AND ACCEDING STATES.

IN WITNESS WHEREOF, THE UNDERSIGNED, DULY AUTHORIZED THERETO, HAVE ASGND THIS CONVENTION.

DONE AT. . . . NO. . . .

ANNEX

CONSULTATIVE COMMITTEE OF EXPERTS

1. THE CONSULTATIVE COMMITTEE OF EXPERTS SHALL UNDERTAKE TO MAKE APPROPRIATE FINDINGS OF FACT AND OROVIDE EXPERT VIEWS RELEVANT TO ANY PROBLEM RAISED PURSUANT TO PARAGRAPH 1 OF ARTICLE V OF THIS CONVENTION BY THE STATE PARTY REQUESTING THE CONVENING OF THE COMMITTEE.

2. THE WORK OF THE CONSULTATIVE COMMITTEE OF EXPERTS SHALL BE ORGANIZED IN SUCH A WAY AS TO PERMIT IT TO PERFORM THE FUNCTIONS SET FORTH IN PARAGRAPH 1 OF THIS ANNEX. THE COMMITTEE SHALL DECIDE PROCEDURAL QUESTIONS RELATIVE TO THE ORGANIZATION OF ITS WORK WHERE POSSIBLE BY CONSENSUS BUT OTHERWISE BY A MAJORITY OF THOSE PRESENT AND VOTING. THERE SHALL BE NO VOTING ON MATTERS OF SUBSTANCE.

3. THE DEPOSITARY OR HIS REPRESENTATIVE SHALL SERVE AS THE CHAIRMAN OX THE COMMITTEE.

4. EACH EXPERT MAY BE ASSISTED AT MEETINGS BY ONE OR MORE ADVISERS.

5. EACH EXPERT SHALL HAVE THE RIGHT, THROUGH THE CHAIRMAN, TO REQUEST FROM STATES, AND FROM INTERNATIONAL ORGANIZATIONS, SUCH INFORMATION AND ASSISTANCE AS THE EXPERT CONSIDERS DESIRABLE FOR THE ACCOMPLISHMENT OF THE COMMITTEE'S WORK.

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DRAFT COMMITTEE UNDERSTANDING ON ARTICLE I

IT IS THE UNDERSTANDING OF THE COMMITTEE THAT, FOR THE PURPOSES OF THIS CONVENTION, THE TERMS "WIDESPREAD," "LONG-LASTING" AND "SEVERE" SHALL BE INTERPRETED AS FOLLOWS:

(A) "WIDESPREAD": ENCOMPASSING AN AREA ON THE SCALE OF SEVERAL HUNDRED SQUARE KILOMETERS;

(B) "LONG-LASTING": LASTING FOR A PERIOD OF MONTHS, OR APPROXIMATELY A SEASON;

(C) "SEVERE": INVOLVING SERIOUS OR SIGNIFICANT

DISRUPTION OR HARM TO HUMAN LIFE, NATURAL AND ECONOMIC RESOURCES OR OTHER ASSETS.

IT IS FURTHER UNDERSTOOD THAT THE INTERPRETATION SET FORTH ABOVE IS INTENDED EXCLUSIVELY FOR THIS CONVENTION AND IS NOT INTENDED TO PREJUDICE THE INTERPRETATION OF THE SAME OR SIMILAR TERMS IF USED IN CONNECTION WITH ANY OTHER INTERNATIONAL AGREEMENT.

DRAFT COMMITTEE UNDERSTANDING ON ARTICLE II

IT IS THE UNDERSTANDING OF THE COMMITTEE THAT THE FOLLOWING EXAMPLES ARE ILLUSTRATIVE OF PHENOMENA THAT COULD BE CAUSED BY THE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES AS DEFINED IN ARTICLE II OF THE CONVENTION: EARTHQUAKES; TSUNAMIS; AN UPSET IN THE ECOLOGICAL BALANCE OF A REGION; CHANGES IN WEATHER PATTERNS (CLOUDS, PRECIPITATION, CYCLONES OF VARIOUS TYPES AND TORNADIC STORMS); CHANGES IN CLIMATE PATTERNS; CHANGES IN OCEAN CURRENTS; CHANGES IN THE STATE OF THE OZONE LAYER; AND CHANGES IN THE STATE OF THE IONOSPHERE.

IT IS FURTHER UNDERSTOOD THAT ALL THE PHENOMENA LISTED ABOVE, WHEN PRODUCED BY THE MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES, WOULD RESULT, OR COULD REASONABLY BE EXPECTED TO RESULT, IN WIDESPREAD, LONG-LASTING, OR SEVERE DAMAGE, DESTRUCTION, OR INJURY. THUS, MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES AS DEFINED IN ARTICLE II, SO AS TO CAUSE THOSE PHENOMENA AS A MEANS OF DAMAGE, DESTRUCTION, OR INJURY TO ANOTHER STATE PARTY WOULD BE PROHIBITED.

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IT IS RECOGNIZED, MOREOVER, THAT THE LIST OF EXAMPLES SET OUT ABOVE IS NOT EXHAUSTIVE. OTHER PHENOMENA WHICH COULD RESULT FROM THE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES AS DEFINED IN ARTICLE II COULD ALSO BE APPROPRIATELY INCLUDED. THE ABSENCE OF SUCH PHENOMENA FROM THE LIST DOES NOT IN ANY WAY IMPLY THAT THE UNDERTAKING CONTAINED IN ARTICLE I WOULD NOT BE APPLICABLE TO THOSE PHENOMENA PROVIDED THE CRITERIA SET OUT IN THAT ARTICLE WERE MET.

DRAFT COMMITTEE UNDERSTANDING ON ARTICLE III

IT IS THE UNDERSTANDING OF THE COMMITTEE THAT THIS CONVENTION DOES NOT DEAL WITH THE QUESTION WHETHER OR NOT A GIVEN USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES FOR PEACEFUL PURPOSES IS IN ACCORDANCE WITH GENERALLY RECOGNIZED PRINCIPLES AND APPLICABLE RULES OF INTERNATIONAL LAW.

DRAFT COMMITTEE UNDERSTANDING ON ARTICLE VIII

IT IS THE UNDERSTANDING OF THE COMMITTEE THAT A
PROPOSAL TO AMEND THE CONVENTION MAY ALSO BE CONSIDERED AT
ANY CONFERENCE OF PARTIES HELD PURSUANT TO ARTICLE VIII.
IT IS FURTHER UNDERSTOOD THAT ANY PROPOSED AMENDMENT THAT
IS INTENDED FOR SUCH CONSIDERATION SHOULD, IF POSSIBLE, BE
SUBMITTED TO THE DEPOSITARY NO LESS THAN 90 DAYS BEFORE
THE COMMENCEMENT OF THE CONFERENCE.

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